

JUSTIN X. WANG (CSB #166183)  
**BAUGHMAN & WANG**  
111 Pine Street, Suite 1350  
San Francisco, California 94111  
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Attorney for Plaintiff  
Syed Wajahat HUSSAIN

**E-filing**

ORIGINAL  
FILED  
08 FEB 14 PM 4:12  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**MEJ**

Syed Wajahat HUSSAIN

Plaintiff,

vs.

MICHAEL CHERTOFF, Secretary of the  
Department of Homeland Security;  
ROBERT S. MUELLER,  
Director of Federal Bureau of Investigation

Defendants.

Case No.:  
**CV 08**

**0946**

**PETITION FOR HEARING ON  
NATURALIZATION APPLICATION  
UNDER 8 U.S.C. § 1447(B)**

COMES NOW Syed Wajahat HUSSAIN, Plaintiff in the above-styled and numbered cause, and for cause of action would show to the Court the following:

1. This action is brought for a hearing to decide Plaintiff's naturalization application due to Defendants' failure to adjudicate the application within 120 days after the first examination in violation of the Immigration and Nationality Act ("INA") § 336(b) and 8 U.S.C. § 1447(b).

**PARTIES**

2. Plaintiff Syed Wajahat HUSSAIN is a lawful permanent resident of the United States. On May 6, 2005, Plaintiff's Form N-400, Application for Naturalization was received by the U.S. Immigration and Naturalization Service, or U.S.C.I.S. (**Exhibit 1**). Plaintiff was interviewed for his naturalization application on September 12, 2005 (**Exhibit 2**). Defendants have failed to make a decision on the application within 120 days after the examination.

3. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security (DHS), and this action is brought against him in his official capacity. He is generally charged with

1 enforcement of the Immigration and Nationality Act, and is further authorized to delegate such  
2 powers and authority to subordinate employees of the DHS. 8 U.S.C. §1103(a); 8 C.F.R. § 2.1.

3 4. Defendant Robert S. Mueller, III, is Director of the Federal Bureau of Investigations (FBI),  
4 the law enforcement agency that conducts security clearances for other U.S. government agencies,  
5 such as the Department of State. As will be shown, Defendant has failed to complete the security  
6 clearances on Plaintiff's cases.

### 7 JURISDICTION

8 5. Jurisdiction in this case is proper under the INA § 336(b) and 8 U.S.C. §1447(b). Relief is  
9 requested pursuant to said statutes.

### 10 VENUE

11 6. Venue is proper in this court, pursuant to 8 U.S.C. §1447(b), in that Plaintiff may request a  
12 hearing on the matter in the District where Plaintiff resides.

### 13 CAUSE OF ACTION

14 7. Plaintiff is a lawful permanent resident of the United States. On May 6, 2005,  
15 Plaintiff's Form N-400, Application for Naturalization was received by the U.S. Immigration and  
16 Naturalization Service, or U.S.C.I.S.(**Exhibit 1**). Plaintiff was interviewed for his naturalization  
17 application on September 12, 2005 (**Exhibit 2**). Defendants have failed to make a decision on the  
18 application within 120 days after the examination. Plaintiff's Application for Naturalization has  
19 now remained un-adjudicated for two years and five months from the date of the interview.

20 8. Defendants have sufficient information to determine Plaintiff's eligibility pursuant to  
21 applicable requirements.

22 9. Defendants, in violation of 8 U.S.C. § 1447 (b), have failed to make a determination on  
23 Plaintiff's naturalization application within the 120-day period after the date of examination.

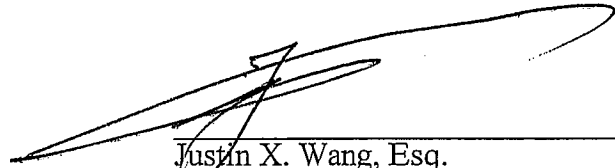
### 24 PRAYER

25 10. WHEREFORE, in view of the arguments and authority noted herein, Plaintiff  
26 respectfully prays that the Defendants be cited to appear herein and that, upon due consideration,  
27 the Court enter an order adjudicating the naturalization application. In the alternative, the Court  
28 may remand requiring Defendants to immediately adjudicate Plaintiff's naturalization application.

1 In addition, Plaintiff requests an award of reasonable attorney's fees under the Equal Access to  
2 Justice Act and such other relief at law and in equity as justice may require.  
3

4 Dated: February 12, 2008

Respectfully submitted,

5  
6  
7 

Justin X. Wang, Esq.  
Attorney for Plaintiff

LIST OF ATTACHMENTS

<i>Exhibit</i>	<i>Description</i>
1	N-400 Receipt Notice
2	N-652, Naturalization Interview Results

Ex1

Department of Homeland Security  
U.S. Citizenship and Immigration Services

## I-797C, Notice of Action



Receipt			NOTICE DATE May 19, 2005
CASE TYPE N400 Application For Naturalization			INS A# A 046 984 235
APPLICATION NUMBER WSC*001316222	RECEIVED DATE May 06, 2005	PRIORITY DATE May 06, 2005	PAGE 1 of 1

APPLICANT NAME AND MAILING ADDRESS  
SYED WAJAHAT HUSSAIN  
4239 BAY ST 221  
FREMONT CA 94538

PAYMENT INFORMATION:  
Single Application Fee: \$390.00  
Total Amount Received: \$390.00  
Total Balance Due: \$0.00

|||||

The above application has been received by our office and is in process. Our records indicate your personal information is as follows:

Date of Birth: March 03, 1968  
Address Where You Live: 4239 BAY ST 221  
FREMONT CA 94538

Please verify your personal information listed above and immediately notify our office at the address or phone number listed below if there are any changes.

You will be notified of the date and place of your interview when you have been scheduled by the local INS office. You should expect to be notified within 460 days of this notice.

If you have any questions or comments regarding this notice or the status of your case, please contact our office at the below address or customer service number. You will be notified separately about any other cases you may have filed.

If you have other questions about possible immigration benefits and services, filing information, or INS forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call the NCSC TDD at 1-800-767-1833.


If you have access to the Internet, you can also visit INS at [www.ins.usdoj.gov](http://www.ins.usdoj.gov). Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.

INS Office Address:  
US IMMIGRATION AND NATURALIZATION SERVICE  
CALIFORNIA SERVICE CENTER  
P.O. BOX 10400  
LAGUNA NIGUEL CA 92607-

INS Customer Service Number:  
(800) 375-5283

APPLICANT COPY

WSC001411620 WSCG000059602



Ex. 2

Department of Homeland Security  
U.S. Citizenship and Immigration Services

# N-652, Naturalization Interview Results

A#:

On 02/11/08, you were interviewed by USCIS officer RUE

A046984235  
A046984235



- ☒ You passed the tests of English and U.S. history and government.
- ☐ You passed the tests of U.S. history and government and the English language requirement was waived.
- ☐ USCIS has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- ☐ You will be given another opportunity to be tested on your ability to \_\_\_\_\_ speak/\_\_\_\_\_ read/\_\_\_\_\_ write \_\_\_\_\_ English.
- ☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- ☐ Please follow the instructions on Form N-14.
- ☒ USCIS will send you a written decision about your application.
- ☐ You did not pass the second and final test of your \_\_\_\_\_ English ability/ \_\_\_\_\_ knowledge of U.S. history and government. You will not be rescheduled for another interview for this Form N-400. USCIS will send you a written decision about your application.

A) \_\_\_\_\_ Congratulations! Your application has been recommended for approval. At this time it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

B) ☒ \_\_\_\_\_ A decision cannot yet be made about your application.

It is very important that you:

- ☒ Notify USCIS if you change your address.
- ☒ Come to any scheduled interview.
- ☒ Submit all requested documents.
- ☒ Send any questions about this application in writing to the officer named above. Include your full name, Alien Registration Number (A#), and a copy of this paper.
- ☒ Go to any Oath Ceremony that you are scheduled to attend.
- ☒ Notify USCIS as soon as possible in writing if you cannot come to any scheduled interview or Oath Ceremony. Include a copy of this paper and a copy of the scheduling notice.

NOTE: Please be advised that under section 336 of the Immigration and Nationality Act, you have the right to request a hearing before an immigration officer if your application is denied, or before the U.S. district court if USCIS had not made a determination on your application within 120 days of the date of your examination.

SEYED W HUSSEIN  
4239 RAY ST P21  
FREMONT CA 94538

Form N-652 (Rev. 01/14/05)N



**PROOF OF SERVICE**

I, the undersigned, declare:

That I am an employee of Baughman & Wang and my business address is:

111 Pine Street, Suite 1350  
San Francisco, CA 94111

That I served the within:

**RE: C08-0946 MEJ**

- 1) **SUMMONS IN A CIVIL ACTION;**
- 2) **CIVIL COVER SHEET;**
- 3) **PLAINTIFF'S ORIGINAL COMPLAINT FOR WRIT IN THE NATURE OF MANDAMUS;**
- 4) **ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE AND DEADLINES; STANDING ORDER;**
- 5) **NOTICE OF ASSIGNMENT OF CASE TO A UNITED STATES MAGISTRATE JUDGE FOR TRIAL**
- 5) **ELECTRONIC CASE FILING REGISTRATION INFORMATION HANDOUT**

by placing said documents in an envelope, which was then sealed, with postage fully paid thereon, and was this day addressed as follows:

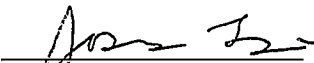
Alberto Gonzales (By Certified Mail)  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

US Attorneys Office (By Certified Mail)  
450 Golden Gate Avenue, Box 36055  
San Francisco, CA 94102  
Attn: Civil Process Clerk

Office of the General Counsel (By Certified Mail)  
U.S. Department of Homeland Security  
Washington, DC 20528

Robert S. Mueller, III (By Certified Mail)  
Director  
Federal Bureau of Investigations  
Office of the General Counsel  
Room 7427, 935 Pennsylvania Ave., N.W.,  
Washington, DC 20535

Executed this February 20, 2008, at San Francisco, California.

  
Joanna Lai